

Issues under Development and Discussion Agenda for November 05, 2003 Meeting

Issue #	Member	Issue	02/06/02 Rank	Action taken to date
3	Outland	TRIM Procedures: Propose a change in reporting as defined in section 192.0105, so that the taxing authorities report and advertise the percentage of proposed budget increase over the <i>prior year's ad valorem proceeds</i> , instead of the current practice of advertising the percentage of proposed budget over the <i>roll back</i> . Such a revision would provide actual TRUTH in millage.	5	Task Force recommended that an update on House interim project be obtained and that the House project be reviewed before acting upon this issue.
6	Zingale, Lewis, T.	Airport/Seaport and Special District Issues: Add issues relating to the taxation of government property used by non-government entities which were not resolved by the Property Tax Advisory Committee. Include issues relating to whether or not "special districts" should be included as property owned and used by a governmental unit under the provisions of section 196.199, F.S. relating to government property exemptions.	13	Task Force recommended that the role of DOR when there is non-uniform treatment of an issue be reviewed and that this issue be returned for discussion at a later time.
9	Burnham	Mobile Home Taxes: Mobile homes which only require a license tag pay substantially less tax to local government than similar homes paying ad valorem taxes. Issue of ways to increase compliance with current law raised a February 2002 PTATF meeting.	15	Task Force recommended that staff research current law on options for tag and tax. Circulate to team. Staff approach Highway Safety and Motor Vehicle Dept.
15	Banting	Household TPP Valuation in Real Property Transfers: Practices regarding the valuation of tangible personal property when assessing high valued homes should be explored. The issue is the proper allocation of tangible personal property and real estate in a real estate sales transaction.	10	Task Force made no recommendations at this time. Issue still under discussion for clarification.
16	Gilreath	Valuation of Percentage Complete Property on January 1: Task Force should address the issue of substantial completion and partial year assessments.	11	Task Force recommended that staff survey other states and determine fiscal impact of including such properties in assessments. Task Force also asked if there could be a determination made of how assessing all property, whether or not substantially complete, would affect TPP.
17	Carry Forward	Non-Ad Valorem Assessment – TRIM: Recommendation that county and municipal non-ad valorem assessments collected using the ad valorem collection process be separately stated on the Notice of Proposed Taxes. Requiring that non-ad valorem taxes be separately stated on the Notice of Proposed Taxes in all counties would allow greater taxpayer input into the decision making process.	17	Task Force recommended a survey of counties on current practices with copies of sample forms. Task Force recommended that this issue be retained until information on House action could be received by the Task Force.
19	Coleman	Uniform rules for special masters and/or VAB hearings - DOR to write a single guideline book for state wide use that would be adopted by all counties, so that VAB hearing rules will be consistent statewide.		New (11-20-02): Task Force recommended a survey of the VAB's to ascertain whether there are guidelines and what those guidelines encompass.

Issue #	Member	Issue	02/06/03 Rank	Action taken to date
22	Todora	<u>DOR Form DR219:</u> Information provided by the Seller or Buyer is frequently not correct. Information is not provided to the property appraiser or PTA in a timely manner.		New (5-21-03):
23	Liggett	<u>Advertisement of property with delinquent taxes:</u> Investors need additional time to do due diligence before purchasing tax liens.		New (5-21-03):
24	Liggett	<u>Bulk sale of tax certificates:</u> Counties should have the option of preparing tax certificates for bulk sale. Counties should also have option of to do RFP for these bulk sales.		New (5-21-03):
25	Todora	<u>Contested Assessments of income producing properties:</u> Assessments of income producing properties may not be contested until a complete statement of all income and expenses for the 12 month proceeding January 1 of the tax year are provided to the property appraiser.		New (5-21-03):
26	Todora	<u>VAB Use of Special Masters:</u> There should be some flexibility for the county to decide whether an otherwise qualified individual can hear value and/or exemption issues in challenges. Further, the 75,000 requirement should be waived.		New (5-21-03):
27	Todora	<u>VAB Exchange of Evidence:</u> The time for exchange of evidence should be expanded to meet the requirements within the county.		New (5-21-03):
28	Jones	<u>Audit evidence for senior exemption eligibility.</u> Recommend that the Department, through its information sharing agreements with the counties and the IRS provide aid and assistance audits of applications for the additional senior exemption.		New (5-21-03):
29	Liggett	<u>Redemption of Tax Certificates:</u> Delinquent property taxes installment program should be initiated for real property on basis similar to that established for tangible personal property. Installment plan should be for a period no longer than 2 years and may provide for a discount.		New (5-21-03):
30	Liggett	<u>Mandatory Redemption Notice:</u> Taxpayers may not be aware that tax liens have been sold to an investor.		New (5-21-03):
31	Liggett	<u>Notification of Successful Bid for Tax Certificate:</u> Successful bidders are given only 48 hours to respond to notice that payment must be made. Successful bidders may be from out-of-state and mail does cannot be relied upon to reach the bidder within the timeframe allowed.		New (5-21-03)
32	Todora	<u>Definition of “common elements” in platted subdivisions:</u> Provide by rule or clarifying legislation a better explanation for what is meant by “common elements” under the provisions Chapter 2003-284 LOF as enacted by the 2003 Legislature		New (8-27-03):
33	Jones	<u>Lessee considered as owners:</u> Current law provides that government owned property that is leased to a non-governmental entities for 100 years or more is deemed to be owned by such lessee for ad valorem tax purposes. Provide for a law which states that leases in excess of 98 years are considered ownership.		New (8-27-03):
34	Coleman	<u>Increase \$500 Exemption for Widows:</u> Property of widows, widowers, and disabled persons is currently exempt from ad valorem tax up to the value of \$500. The amount of the exemption should be increased so that the value of the exemption is a realistic amount. (\$500 exemption will same about \$10 in tax).		New (8-27-03):

ISSUE 3: TRIM PROCEDURES

Propose a change in reporting as defined in section 192.0105, so that the taxing authorities report and advertise the percentage of proposed budget increase over the prior year's ad valorem proceeds, instead of the current practice of advertising the percentage of proposed budget over the roll back. Such a revision would provide actual TRUTH in millage.

CURRENT SITUATION:

When truth of millage was established in the 1980, it was to provide the taxpayers information necessary to distinguish between assessment increases and tax hikes. The TRIM notice is suppose to be disclosing tax hikes or increases, but the rollback rate does not accurately reflecting budget increases.

ISSUE 6: AIRPORT/SEAPORT AND SPECIAL DISTRICT ISSUES:

Add issues relating to the taxation of government property used by non-government entities which were not resolved by the Property Tax Advisory Committee. Include issues relating to whether or not "special districts" should be included as property owned and used by a governmental unit under the provisions of section 196.199, F.S. relating to government property exemptions.

CURRENT SITUATION:

There is a perception of a conflict on the way the courts are interpreting the constitution and statutes with regard to the taxation of airport and seaport property, what the constitution says and what the statute is directing the property appraiser to do. The legislature made attempts to define the properties to be taxed, but the courts have struck down the statutes.

ISSUE 9: MOBILE HOME TAXES:

Mobile homes which only require a license tag pay substantially less tax to local government than similar homes paying ad valorem taxes. Issue of ways to increase compliance with current law raised a February 2002 PTATF meeting.

CURRENT SITUATION:

There is inconsistency in compliance of the assessment of mobile homes either as tangible personal property or real property. There is also inequity of licensing of a mobile home in comparison with ad valorem taxation of the single family home and as a result there is lost revenue. This is especially found on the bills of sale for what the post-Andrew houses have been selling for.

ISSUE 15: HOUSEHOLD TPP VALUATION IN REAL PROPERTY TRANSFERS:

Practices regarding the valuation of tangible personal property when assessing high valued homes should be explored. The issue is the proper allocation of tangible personal property and real estate in a real estate sales transaction.

CURRENT SITUATION:

Homestead and other extremely high-priced homes are allocating the sale price so as to lump a disproportionate amount of value onto the personal property included in the sale transaction. The property appraiser then has sale prices that are recorded on the expensive homes at much less than the actual selling price of the real property. This is a practice used by some buyers and sellers as they attempt to disguise the negotiated price of the real estate from the property appraiser's office.

ISSUE 16: VALUATION OF PERCENTAGE COMPLETE ON JANUARY 1:

Task Force should address the issue of substantial completion and partial year assessments.

CURRENT SITUATION:

Property under construction in Florida is not taxed except for the original value of the property plus pre-existing improvements, if any. This results in a loss of tax revenues from property that uses public services.

ISSUE 17: NON-AD VALOREM ASSESSMENT – TRIM

Recommendation is that county and municipal non-ad valorem assessments collected using the ad valorem collection process be separately stated on the Notice of Proposed Taxes. Requiring that non-ad valorem taxes be separately stated on the Notice of Proposed Taxes in all counties would allow greater taxpayer input into the decision making process.

CURRENT SITUATION

Local taxing authorities in an effort to raise money levy fee surcharges, special assessments and non-ad valorem assessments that are part of what the taxpayer pays annually, but there is no annual year disclosure of the full amount of all the assessments levied.

ISSUE 19: VAB RULES – STATEWIDE UNIFORMITY

VAB internal operating procedures for Special Masters to determine whether assessment is valid should be uniform throughout the state.

CURRENT SITUATION

Multi-jurisdictional taxpayers have difficulty gathering evidence in support of petition because each county has its own set of rules and procedures.

ISSUE 22: DOR FORM DR219

Information provided by the Seller or Buyer is frequently not correct. Information is not provided to the property appraiser or PTA in a timely manner.

CURRENT SITUATION

Form DR219 is filed with the Clerk of Court when an instrument transferring title is to be recorded. The Clerk does not verify information and frequently does not check to make sure that the information on the form is complete. There is a delay in getting the sale information to PTA because it goes through GTA for imaging and collection of the doc stamp fee.

ISSUE 23: ADVERTISEMENT OF PROPERTY WITH DELINQUENT TAXES

Require that the advertising of real property subject to tax certificate sales take place in April. Investors need additional time to conduct due diligence research before purchasing tax liens. Advertising in April would allow investors more time to do research on parcels that will be subject to tax certificate sales.

CURRENT SITUATION

Section 197.402(3), Florida Statutes, provides for advertising of parcels with delinquent real estate taxes to occur once each week for 3 weeks on or before June 1 or the 60th day after the date of delinquency, whichever

is later.

ISSUE 24 BULK SALE OF TAX CERTIFICATES

Under this proposal, a change to the law in section 197.432, Florida Statutes, would grant Florida counties the option of selling their delinquent property tax receivables in bulk sale format through an RFP process. Details such as interest rate and public notification requirements would be items for inclusion in any such amendment. Counties exercising this option would eliminate the tax certificate auction and receive one check from the bidding entity awarded the purchase.

CURRENT SITUATION

Section 197.432, Florida Statutes provides only for the sale of individual tax certificates.

ISSUE 25 CONTESTED ASSESSMENTS OF INCOME PRODUCING PROPERTIES

Assessments of income producing properties may not be contested until a complete statement of all income and expenses for the 12 month proceeding January 1 of the tax year are provided to the property appraiser.

CURRENT SITUATION

Assessments of income producing properties may be contested without a complete statement of all income and expenses for the 12 month proceeding January 1 of the tax year being provided to the property appraiser.

ISSUE 26 VAB USE OF SPECIAL MASTERS (SEE ALSO ISSUE #27)

There should be some flexibility for the county to decide whether an otherwise qualified individual can hear value and/or exemption issues in challenges. Further, the 75,000 requirement should be waived.

CURRENT SITUATION

Section 194.035, Florida Statutes provides that in counties having a population of more than 75,000, the board shall appoint special masters for the purpose of taking testimony and making recommendations to the board, which recommendations the board may act upon without further hearing. A special master appointed to hear issues of exemptions and classifications shall be a member of The Florida Bar with no less than 5 years' experience in the area of ad valorem taxation. A special master appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years' experience in real property valuation. A special master appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than 5 years' experience in tangible personal property valuation.

ISSUE 27 VAB EXCHANGE OF EVIDENCE (SEE ALSO ISSUE #26)

The time for exchange of evidence should be expanded to meet the requirements within the county.

CURRENT SITUATION

Section 194.011(4)(a) Florida Statutes: At least 10 days before the hearing, the petitioner shall provide to the property appraiser a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses.

Section 194.011(4)(b), Florida Statutes: No later than 5 days after the petitioner provides the information required under paragraph (a), the property appraiser shall provide to the petitioner a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses. The evidence list must contain the property record card if provided by the clerk.

ISSUE 28 : AUDITING FOR SENIOR EXEMPTION ELIGIBILITY

In most counties, it is cost prohibitive to audit the paperwork and/or applications for income eligibility on the additional \$25,000 exemption available for seniors. The exemption is based on a Federal income tax limitation of around \$22,000 per household for the current year. Recommend that the Department, through its information sharing agreements with the counties and the Internal Revenue Service provide aid and assistance audits of the paperwork provided by applicants for the senior exemption.

CURRENT SITUATION

The State of Florida does not have the authority to conduct audits of Federal personal income tax returns. The Department has information sharing agreements with the IRS for purposes of enforcing state tax liability. Generally, property appraisers have not entered into information sharing agreements with the IRS.

ISSUE 29 REDEMPTION OF TAX CERTIFICATES:

An installment program for redemption of outstanding tax certificates should be initiated on a basis similar to that established in section 197.222, F.S., which allows for the payment of current property taxes in four separate installments.

CURRENT SITUATION

There is no provision for the redemption of tax certificates under an installment payment plan, unless ordered by a court. Taxpayer must pay taxes and fees in a single payment to redeem a tax certificate.

Sponsor's Comment: An installment payment schedule would begin immediately after the issuance of the tax certificate and end immediately before the 22 month window for applying for a tax deed and ultimate foreclosure against the property. Adherence to the plan by the delinquent property owner would save additional financial burden of redemption from tax deed sale proceedings and benefit the holder of the tax certificate. Minimum tax certificate face amounts could be established similar to what is already in place within section 197.4155(1) for delinquent tangible personal property tax payments. The current statute requirement of applying the bid rate or 5 percent, whichever is greater, would apply to any installment payments made under this proposal.

ISSUE 30 MANDATORY REDEMPTION NOTICE

Property owners may not be aware that tax liens have been sold to an investor.

CURRENT SITUATION

Section 197.343(4), Florida Statutes provides that the tax collector shall mail such additional notices as he or she considers proper and necessary or as may be required by reasonable rules of the department. There is no provision for notification to the property owners that a tax lien has been sold.

Sponsor's Comment: A separate tax certificate notice mailed out immediately after adjournment of the tax certificate sale would have the effect of providing earlier notice to the property owner that a lien has been sold against their parcel and may increase the possibility of early redemptions.

ISSUE 31 NOTIFICATION OF SUCCESSFUL BID FOR TAX CERTIFICATE

Successful bidders are given only 48 hours to respond to notice that payment of property tax must be made. Successful bidders may be out-of-state and/or out-of-country and mail cannot be relied upon to reach the bidder within the timeframe allowed. Allowing an additional 24 hours for payment of balances owed on tax certificates purchased would make sense in today's arena of international markets.

CURRENT SITUATION

Section 197.432(6), Florida Statutes provides that when tax certificates are ready for issuance, the tax collector shall notify each person to whom a certificate was struck off that the certificate is ready for issuance and payment must be made within 48 hours from the mailing of such notice or the deposit shall be forfeited and the bid canceled. In any event, payment shall be made before delivery of the certificate by the tax collector.

Sponsor's Comment: The time allotment of 48 hours was sufficient when tax certificate investors were located in or near the geographic areas where the certificates were sold. Because many investors travel from far distances to participate in Florida tax certificate sales, it would seem reasonable to amend the language of 197.432 (6), Florida Statutes, and allow 72 hours for receipt of the balance owed. In some instances, tax certificate investors do not receive the notice until the 48 hour period has already elapsed.

ISSUE 32: DEFINITION OF "COMMON" ELEMENTS IN A PLATTED SUBDIVISION

Provide by rule or clarifying legislation a better explanation for what is meant by the term "common elements" under the provisions of Chapter 2003-284, L.O.F., that are for the exclusive benefit of the subdivision.

CURRENT SITUATION

This new law will take effect January 1, 2004

ISSUE 33: 100-YEAR LEASES VS 98-YEAR LEASED PROPERTY

Amend section 196.199(7) to provide that government owned property that is leased to non-governmental entities for 98 years or more is deemed to be owned by such lessee for ad valorem tax purposes.

CURRENT SITUATION

Currently, section 196.199(7) provides that government owned property that is leased to non-governmental entities for 100 years or more is deemed to be owned by such lessee for ad valorem tax purposes. The Florida constitution sets a different standard for equitable ownership in Article VII, which deals with "Finance and Taxation." In Article VII, Section 6, the standard for considering leaseholds to be owned is that such leasehold must be "initially in excess of ninety-eight years." In order to make the statutory provisions consistent with the constitutional standard, section 196.199(7) should be amended to change the number "100" to "98."

ISSUE 34: WIDOWS EXEMPTION

Increase \$500 Exemption for Widows: Property of widows, widowers, and disabled persons is currently exempt from ad valorem tax up to the value of \$500. The amount of the exemption should be increased so that the value of the exemption is a realistic amount. (\$500 exemption will same about \$10 in tax).

CURRENT SITUATION

Homestead property up to the value of \$500 of widows, widowers, and partially disabled persons is currently exempt from ad valorem tax. Property for disabled veterans whose disability is greater than 10% but less than 100% was increased from an exempt value of \$500 to \$5,000 several years ago.